



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,160	02/09/2004	Fredrica V. Coates	50014-056	5449

7590 09/06/2005

McDermott, Will & Emery  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,160	<b>Applicant(s)</b> COATES, FREDRICA V.	
	<b>Examiner</b> Karin M. Reichle	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/04 & 5/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-9-05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. It is noted that the statement by the Attorney of Record in the application request form of 2-9-05 that there was no new matter with the enclosed application is considered to apply to the substitute specification filed in the preliminary amendment therewith of the same date.

### ***Specification***

#### ***Drawings***

2. The drawings were received on 2-9-05 and 5-27-04. These drawings are approved by the Examiner. See the following paragraph with regard to remaining informalities.

3. The drawings are objected to because in Figure 4A, 62C should be 64 C and in Figure 4, the solid line inside the dashed line indicating strap 66A should be deleted. In Figure 5A, 104 should be deleted. In Figure 8, 108 should be 118. In Figure 9, the lower 42 should have a dashed not solid line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

Art Unit: 3761

the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Description*

4. The substitute specification filed 2-9-04 has been entered. The amendment to page 10, line 9, filed 5-27-05 should have been labeled as an amendment to page 11, line 3 instead and the second amendment to the paragraph bridging pages 14-15 should be pages 15-16. The amendments has been annotated to that effect.

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 2, lines 10-13.

6. The disclosure is objected to because of the following informalities: In the amendment to page 9, line 5, lines 3-4 thereof, "folding...not removed" should be --removing the corners 21 at what will be edges 42A and then seaming-- and on the second to last line thereof, change ";;" to --, i.e.--. In the amendment to page 11, line 3, line 3 thereof, "pocket 60" should be --pocket 68--. In the amendment to page 11, line 17, line 1 thereof, after "cuff", --61-- should be inserted. In the amendment to the paragraph at page 14, line 8, line 5 thereof, "162" should be --163-- and on line 8, "stitches 403, 404" should be --strip 403a--. In the paragraph bridging pages 14-15,

Art Unit: 3761

line 7, “,” should be deleted and on the second to last line “is” should be --are--. In the amendment to page 17, last line thereof, a period should be inserted.

Appropriate correction is required.

### ***Claim Objections***

7. Claim 8 is objected to because of the following informalities: on line 1, “A” should be --The--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. Claims 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The description of the attachment between the inner layer and the anchor layer on lines 6-7 of claim 7 and that on the last line of claim 7 and in claim 8 is inconsistent, i.e. is the inner layer releasably fastened to the anchor layer or not?

### ***Claim Language Interpretation***

9. Due to the inconsistency set forth in the preceding paragraph, claims 7 and 8 will be interpreted to recite all the structure set forth except for “thereof ...thereof” on lines 6-7 of claim 7. Also the terminology “fluid-resistant” will be interpreted as resistant to fluid and “resistant” is interpreted as “giving or capable of resistance”, i.e. its dictionary definition. Therefore, absent

claiming specific dimensions of resistance to fluid, the terminology “fluid-resistant” will be considered relative.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens ‘598.

See Figures, col. 5, line 23-col. 6, line 33, col. 6, lines 61-65, col. 14, lines 15-34, col. 18, lines 20-32 and the paragraph bridging cols. 18-19, i.e. as best understood, the inner layer is 36 inside of 40 which layer is liquid impermeable, i.e. “fluid-resistant”, and as can be seen in, e.g., Figures 2 and 2A the layer 36 is displaced inwardly from sides of element 12 and extends upwardly therefrom to form a pocket, the outer layer and anchor layer are 12 which is disclosed as including two nonwoven layers both of which can be “microporous” webs, i.e. absent claiming of specific water resistance, considered “fluid-resistant” as claimed, and 42, 50 and 48 are the releasable fastener between the inner layer of 12, i.e. the anchor layer, and the pocket formed by the inner layer 36, see, e.g., Figure 15. The fastener includes a snap fastener.

### ***Conclusion***


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. It is noted that Alsop ‘604 device teaches a cloth layer attached to a pocket forming

inner layer by a releasable fastener, see Figure 5. The Thompson reference teaches a fabric layer also having a liquid impermeable outer layer attached to an inner layer by a releasable fastener. The Ono et al and Joffe et al references teach similar structure with regard to a pocket formed by an inner layer.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
August 22, 2005